



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**[EPA-HQ-OAR-2014-0905; FRL 9927-15-OAR]**

**RIN 2060-AS58**

**Relaxation of the Federal Reid Vapor Pressure Gasoline Volatility Standard for  
Birmingham, Alabama**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a request from the state of Alabama for the EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for Jefferson and Shelby counties (“the Birmingham area”). Specifically, the EPA is proposing to amend the regulations to change the RVP standard for the Birmingham area from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has preliminarily determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless a public hearing is requested by **[INSERT DATE 15 DAYS AFTER DATE OF**

**PUBLICATION IN THE FEDERAL REGISTER**]. If the EPA receives such a request, we will publish information related to the timing and location of the hearing and a new deadline for public comment.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2014-0905, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov).
- Mail: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., N.W., Washington, DC, 20460, Attention Docket ID No. EPA-HQ-OAR-2014-0905. Please include a total of two copies.
- Hand Delivery: Air and Radiation Docket, EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. Attention Docket ID No. EPA-HQ-OAR-2014-0905. Please include two copies. Such deliveries are accepted only during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2014-0905. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means that the EPA will not know your identity or

contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., N.W., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Patty Klavon, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood

Drive, Ann Arbor, Michigan, 48105; telephone number: (734) 214-4476; fax number: (734) 214-4052; e-mail address: klavon.patty@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

The contents of this preamble are listed in the following outline:

- I. General Information
- II. Public Participation
- III. Background and Proposal
- IV. Direct Final Rule
- V. Statutory and Executive Order Reviews
- VI. Legal Authority

#### **I. General Information**

##### **A. This Proposed Rule Is Published Parallel to a Direct Final Rule**

In the “Rules and Regulations” section of this Federal Register, the EPA is making this revision as a direct final rule without prior proposal because the EPA views these revisions as noncontroversial and anticipates no adverse comment. The rationale for this rulemaking is described both in this proposal and in the direct final rule.

The regulatory text for this proposed rule is included in the direct final rule, and parties should review that rule for the regulatory text. If the EPA receives no adverse comment, the EPA will not take further action on this proposed rule. If the EPA receives adverse comment on this rule or any portion of this rule, the EPA will withdraw the direct final rule or the portion of the rule that received adverse comment. All public comments received will then be addressed in a subsequent final rule based on this proposed rule.

The EPA will not institute a second comment period on this rulemaking. Any parties interested in commenting must do so at this time.

B. Does this Action Apply to Me?

Entities potentially affected by this rule are fuel producers and distributors who do business in Alabama.

Examples of Potentially Regulated Entities	NAICS <sup>1</sup> Codes
Petroleum refineries	324110
Gasoline Marketers and Distributors	424710 424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which the EPA is aware that potentially could be affected by this rule. Other types of entities not listed on the table could also be affected by this rule. To determine whether your organization could be affected by this rule, you should carefully examine the regulations in 40 CFR 80.27. If you have questions regarding the applicability of this action to a particular entity, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What Should I Consider as I Prepare My Comments?

1. Submitting CBI

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<sup>1</sup> North American Industry Classification System

Do not submit CBI to the EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

## 2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions – The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

### 3. Docket Copying Costs

You may be required to pay a reasonable fee for copying docket materials.

## II. Public Participation

The EPA will not hold a public hearing on this matter unless a request is received by the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives such a request, we will publish information related to the timing and location of the hearing and a new deadline for public comment.

## III. Background and Proposal

### A. Summary of the Proposal

The EPA is proposing to approve a request from the state of Alabama to change the summertime RVP standard for Jefferson and Shelby counties (“the Birmingham area”) from 7.8 psi to 9.0 psi by amending the EPA’s regulations at 40 CFR 80.27(a)(2). In a previous rulemaking, the EPA approved a state implementation plan (SIP) revision from the state of Alabama which provided a technical demonstration that relaxing the federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold from June 1 to September 15 of each year in the Birmingham area would not interfere with maintenance of the NAAQS in the Birmingham area or with any other applicable CAA requirement.

For more information on Alabama's SIP revision, please refer to the April 17, 2015 rulemaking (80 FR 21170).

The preamble for this rulemaking is organized as follows: Section III.B. provides the history of the federal gasoline volatility regulation. Section III.C. describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section III.D. provides information specific to Alabama's request for the Birmingham area. Finally, Section IV. briefly discusses the associated direct final rule.

#### B. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), the EPA determined that gasoline nationwide was becoming increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function, thereby aggravating asthma and other respiratory conditions, increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under CAA section 211(c), the EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase



I of a two-phase nationwide program, which was designed to reduce the volatility of gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), the EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the state, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS.)

The 1990 CAA Amendments established a new section 211(h) to address fuel volatility. CAA section 211(h) requires the EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. CAA section 211(h) also prohibits the EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), the EPA modified the Phase II volatility regulations to be consistent with CAA section 211(h). The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, effective January 13, 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, the EPA will rely on states to initiate changes

to their respective volatility programs. The EPA's policy for approving such changes is described below in Section III.C.

The state of Alabama has initiated this change by requesting that the EPA relax the 7.8 psi RVP standard to 9.0 psi for the Birmingham area, which is subject to the 7.8 RVP requirement during the summertime ozone season. Accordingly, the state of Alabama provided a technical demonstration showing that relaxing the federal RVP requirements in the Birmingham area from 7.8 psi to 9.0 psi would not interfere with maintenance of the NAAQS or with any other applicable CAA requirement.

C. The EPA's Policy Regarding Relaxation of Volatility Standards in Ozone  
Nonattainment Areas That Are Redesignated to Attainment Areas

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where the EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the federal 7.8 psi RVP requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal RVP standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991 rulemaking, the EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, CAA section 107(d)(3) requires the state to make a showing, pursuant to

CAA section 175A, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, the EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates to the satisfaction of the EPA that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

Alabama did not request relaxation of the federal RVP standard from 7.8 psi to 9.0 psi when the Birmingham area was redesignated to attainment for either the 1-hour ozone NAAQS or the 1997 ozone NAAQS. However, Alabama took a conservative approach in developing maintenance plans associated with those redesignation requests by estimating emissions using a federal RVP requirement of 9.0 psi.

D. Alabama's Request to Relax the Federal RVP Requirement for the Birmingham Area

In a May 12, 2006 final rule, the EPA approved the Birmingham area's redesignation request and maintenance plan for the 1997 ozone NAAQS. See 71 FR 27631 (May 12, 2006).<sup>2</sup> As required, the CAA section 175A maintenance plan provides for continued attainment and maintenance of the 1997 ozone NAAQS for at least ten years from the effective date of the Birmingham area's redesignation to attainment for the 1997 ozone NAAQS. This maintenance plan also includes components demonstrating

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<sup>2</sup> The Birmingham area (i.e., Jefferson and Shelby counties) was designated as unclassifiable/attainment for the 2008 ozone NAAQS effective July 20, 2012. See 77 FR 30088 (May 21, 2012).

how the Birmingham area will continue to attain the 1997 ozone NAAQS, and provides contingency measures should the Birmingham area violate the 1997 ozone NAAQS. The state of Alabama's ozone redesignation request and maintenance plan for the Birmingham area did not remove the state-level 7.0 psi RVP requirement that was in place for the Birmingham area.<sup>3</sup>

On March 2, 2012, the state of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a proposed revision to Alabama's SIP removing the state-level RVP requirement to use 7.0 psi RVP gasoline in the Birmingham area during the summertime ozone season. The EPA approved the revision in an April 20, 2012 final rule. See 77 FR 23619. The revision to the Alabama SIP resulted in the federal RVP requirement of 7.8 psi applying to the Birmingham area.

On November 14, 2014, the state of Alabama submitted a proposed revision to its SIP demonstrating that removal of the federal RVP requirement of 7.8 psi for gasoline during the summertime ozone season in the Birmingham area would not interfere with maintenance of any NAAQS. Specifically, the state provided a technical demonstration showing that relaxing the federal RVP requirement in the Birmingham area from 7.8 psi to 9.0 psi would not interfere with maintenance of the NAAQS or with any other applicable requirement of the CAA.

The EPA evaluated and approved Alabama's November 14, 2014 SIP revision in a previous rulemaking that was subject to public notice-and-comment. The EPA received two comments on that rulemaking, and those comments were addressed in the final rule

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<sup>3</sup> In 2001, the EPA approved a state fuel program that imposed a more stringent 7.0 psi requirement for the Birmingham area, per CAA section 211(c)(4)(C). The low-RVP fuel program required that all gasoline sold during the summertime ozone season (June 1-September 15 of each year) in the Birmingham area contain a maximum RVP of 7.0 psi. See 77 FR 23620 (April 20, 2012).

for that rulemaking. See 80 FR 21170 (April 17, 2015). The comments received can be found in the docket for that rulemaking (EPA-R04-OAR-2014-0867).

In this action, the EPA is proposing to approve Alabama's request to relax the summertime ozone season RVP standard for the Birmingham area from 7.8 psi to 9.0 psi. Specifically, the EPA is proposing to amend the applicable RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the Birmingham area. This is based on the previous approval of Alabama's November 14, 2014 SIP revision, and the fact that the Birmingham area is currently in attainment for all ozone NAAQS.

#### IV. Direct Final Rule

A direct final rule that would make the same changes as those proposed in this action appears in the Rules and Regulations section of this Federal Register. The EPA is taking direct final action on these revisions because the EPA views the revisions as noncontroversial and anticipates no adverse comment. The EPA has explained the reasons for the amendments in this proposal and in the direct final rule. If no adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

If the EPA receives adverse comments on the rule or any portion of the rule, the EPA will withdraw the direct final rule or the portion of the rule that received adverse comment. The EPA will publish a timely withdrawal in the Federal Register indicating which provisions are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

The changes to the regulatory text proposed in this document are identical to those for the direct final rule published in the Rules and Regulations section of this Federal Register. For further information, including the regulatory revisions, see the direct final rule published in a separate part of this Federal Register.

V. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this Federal Register.

VI. Legal Authority

The statutory authority for this action is granted to the EPA by Sections 211(h) and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Incorporation by reference, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: April 30, 2015.

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Gina McCarthy,

Administrator

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